

1 STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY  
2 BRANCH 1

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3 STATE OF WISCONSIN,  
4 PLAINIFF, JURY TRIAL  
5 vs. VOIR DIRE - DAY 4  
6 STEVEN A. AVERY, Case No. 05 CF 381  
7 DEFENDANT.

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8 **DATE:** FEBRUARY 8, 2007

9 **BEFORE:** Hon. Patrick L. Willis  
10 Circuit Court Judge

11 **APPEARANCES :**

12 KENNETH R. KRATZ  
13 Special Prosecutor  
14 On behalf of the State of Wisconsin.

14 THOMAS J. FALLON  
15 Special Prosecutor  
16 On behalf of the State of Wisconsin.

16 DEAN A. STRANG  
17 Attorney at Law  
18 On behalf of the Defendant.

18 JEROME F. BUTING  
19 Attorney at Law  
20 On behalf of the Defendant.

20 STEVEN A. AVERY  
21 Defendant  
22 Appeared in person.

22 \* \* \* \* \*

23 **PARTIAL TRANSCRIPT OF PROCEEDINGS**

24 Reported by Diane Tesheneck, RPR  
25 Official Court Reporter

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1 (Continued proceedings reported by Diane Tesheneck.)

2 THE COURT: All right. At this time we're  
3 back on the record without any jurors present in the  
4 courtroom. During the break, counsel informed me  
5 they were -- they would be talking about one juror  
6 for which there may be a motion.

7 ATTORNEY FALLON: Right. There may be one  
8 other one that may roll into that, may be able to  
9 take care of two here.

10 THE COURT: Okay.

11 ATTORNEY FALLON: Apparently, your Honor,  
12 the parties have reached an agreement that two of  
13 the upcoming jurors will be excused for cause. That  
14 would be Juror No. 77 and Juror No. 78. Juror  
15 No. 77 for statutory and objective bias reasons and  
16 Juror No. 78 for subjective bias, based on the  
17 answers to the questionnaire on Juror No. 78. And  
18 on Juror No. 77, based on status of current arrest  
19 history.

20 THE COURT: All right. Mr. Strang, is that  
21 correct?

22 ATTORNEY STRANG: It is a joint motion as  
23 counsel said.

24 THE COURT: All right. Based on my review  
25 of the questionnaires in each of those cases, I

1 believe there's a basis for the party's motion. So  
2 the Court will order that Jurors 77 and 78 be  
3 excused for cause.

4 Janet, are there any other jurors up  
5 till this point, in the number order, that have  
6 not been called, but have not been excused  
7 either? Were there any other jurors unaccounted  
8 for, either questioned and excused or questioned  
9 and accepted, that are open?

10 THE CLERK: No, not that I'm aware of.

11 THE COURT: Very well, then we'll bring in  
12 Mr. Wichlacz. Just a second, Linda, hold on. Yes.

13 ATTORNEY FALLON: The parties have been  
14 talking about the Juror No. 8, I think it was, from  
15 Monday.

16 THE COURT: Okay.

17 ATTORNEY FALLON: Has developed a recent  
18 issue regarding her potential hardship.

19 THE COURT: Yes.

20 ATTORNEY KRATZ: We thought before she  
21 became No. 30 we should deal with that issue so that  
22 there isn't a question as to --

23 THE COURT: Okay.

24 ATTORNEY KRATZ: That we did have somebody  
25 in abeyance, if you will.

1 THE COURT: Yes, this is --Well, the 8th  
2 juror selected, Juror No. 13 on the list.

3 ATTORNEY FALLON: Yes.

4 THE COURT: I can indicate for the parties  
5 that this is Mary Whalen, that she was originally, I  
6 believe on the first day --

7 ATTORNEY FALLON: Yes, she was the last one  
8 seated on Monday.

9 THE COURT: Yes. Seated on Monday.  
10 Indicated at the time that she initially claimed  
11 hardship for a couple of reasons, financial and also  
12 transportation responsibilities with respect to her  
13 family. She, it turns out, is the sole source of  
14 transportation for her husband. And recognized,  
15 only after she left court, that while she could take  
16 him to court, there was no one to bring him home.  
17 And they live out in the country where there really  
18 wasn't anybody else to provide transportation. So  
19 she has requested that she be excused because of the  
20 hardship on her family.

21 Does either party have any objection to  
22 the Court granting her request?

23 ATTORNEY KRATZ: No, Judge.

24 THE COURT: Mr. Strang?

25 ATTORNEY STRANG: No, Judge.

1 THE COURT: All right. The Court, then,  
2 will excuse Ms Whalen. And, then, we will at this  
3 time move on to questioning Mr. Wichlacz, Juror 68.

4 ATTORNEY STRANG: As I have Mary Whalen,  
5 she's No. 13 not No. 8.

6 THE COURT: Well, she was the 8th juror  
7 selected and No. 13 in the order.

8 ATTORNEY STRANG: Sorry.

9 THE CLERK: Actually, she was the 9th  
10 juror --

11 THE COURT: Oh, was she?

12 THE CLERK: -- is what I had her at.

13 THE COURT: Let me see.

14 ATTORNEY KRATZ: Yeah, but we had taken  
15 somebody out of order.

16 THE COURT: Oh, that could be. Yes, that's  
17 right, she was actually the 9th one selected, but  
18 the 8th in order. Okay. All right. Are we ready  
19 for Mr. Wichlacz.

20 ATTORNEY KRATZ: We are and this will be my  
21 examination, Judge.

22 THE COURT: Very well. Mr. Wichlacz,  
23 please raise your right hand and the Clerk will  
24 administer the oath.

25 (Juror sworn.)

1 THE CLERK: Please be seated.

2 THE COURT: Mr. Wichlacz, first of all, am  
3 I pronouncing your name correct?

4 MR WICKLASS: Wichlacz.

5 THE COURT: Wichlacz. Very well. You have  
6 already filled out a written jury questionnaire in  
7 this case. Today we are moving on to the next stage  
8 of the jury selection process which is referred to  
9 as voir dire.

10 In this stage, the attorneys for each of  
11 the parties have an opportunity to ask you  
12 questions that bear on your ability to serve as a  
13 juror in this case. Many of the questions will  
14 be follow-up questions to information provided in  
15 the questionnaire.

16 Before we get to the attorney's  
17 questions, I can tell you that the jurors who are  
18 selected to serve in this case will not be  
19 sequestered; that is, at the end of the trial  
20 proceedings each day, they will be permitted to  
21 return home.

22 Because of that fact there will continue  
23 to be a prohibition on any exposure of the jurors  
24 to information about the case in any form of news  
25 media; be it radio, television, newspapers,

1 internet, or any other sources. And in addition,  
2 the jurors will be prohibited from speaking to  
3 anyone about the case. That would include family  
4 members, as well as other members of the jury,  
5 until it is time to deliberate.

6 Although the court proceedings today are  
7 held in open court, no cameras are permitted in  
8 the courtroom today during these voir dire  
9 proceedings and the members of the news media are  
10 not permitted to use the names of jurors in any  
11 news reports.

12 If you are selected to serve on the jury  
13 in this case, you should also know that while  
14 cameras may cover the trial, they are not  
15 permitted to show the jury in any way that  
16 identifies any members of the jury.

17 In the event you are retained on the  
18 jury panel after the proceedings today, you will  
19 receive a notice, probably sometime later today,  
20 letting you know when to report back to court.

21 THE COURT: Mr. Strang, at this point you  
22 may begin your questioning.

23 ATTORNEY KRATZ: Mr. Kratz, but I will,  
24 Judge.

25 THE COURT: Okay. Sorry, Mr. Kratz.



1 VOIR DIRE EXAMINATION

2 BY ATTORNEY KRATZ:

3 Q. Mr. Wichlacz, good afternoon. My name is Ken  
4 Kratz, I'm the Calumet County District Attorney.  
5 I represent the State in this case and will be  
6 the lead prosecutor. Seated with me this  
7 afternoon is Tom Fallon. Mr. Fallon is a  
8 attorney with the Department of Justice,  
9 Assistant Attorney General, will be assisting not  
10 only today but also through the entire trial.  
11 Good afternoon.

12 As the Judge explained this is our  
13 opportunity to ask you some additional questions  
14 and follow up on some responses that you gave in  
15 your written questionnaire. Let me first start  
16 with your most recent employment. I understand  
17 that your principal occupation was manager of a  
18 grocery store; is that correct?

19 A. Well, the grocery department at the -- well, it  
20 was Sentry, now it's Piggly Wiggly.

21 Q. All right. And for how long had you engaged in  
22 that employment?

23 A. Well, I'm still there part-time. It's going on  
24 about 45 years.

25 Q. I understand, Mr. Wichlacz, that you have two

1 children, a son and a daughter; is that correct?

2 A. Correct.

3 Q. Your son is a member of the City of Manitowoc

4 Police Department; is that right?

5 A. Yes, that's correct.

6 Q. And your daughter is an attorney?

7 A. Yes.

8 Q. Could I ask your son's name, please?

9 A. Rob Barbier.

10 Q. I'm sorry?

11 A. Rob Barbier.

12 Q. And your daughter?

13 A. Katie Brown.

14 Q. Let's start with the obvious, your son being a  
15 Manitowoc County law enforcement officer. Have  
16 you had an occasion to speak with your son about  
17 this case?

18 A. Just briefly. It was just that he was involved  
19 in the search of the property.

20 Q. All right. Did your son --

21 A. That's about all he said.

22 Q. Did your son tell you what was engaged in those  
23 search efforts?

24 A. Pardon?

25 Q. Did your son tell you what he did in those search

1           efforts?

2    A.    Just -- just that they were looking around and  
3           that's about all he said.  He didn't say they  
4           found anything or -- I guess that covers it.

5    Q.    Your son is not on the witness list, but like  
6           several other law enforcement and other  
7           volunteers, he was involved in the search for Ms  
8           Halbach; is that right?

9    A.    For the car.

10   Q.    All right.

11   A.    Yes.

12   Q.    Was he also involved after the car was found; do  
13           you know if he was on the property?

14   A.    I don't think so.  I think he was just, once they  
15           found the car I think he was done.

16   Q.    All right.  Now, Mr. Wichlacz, I'm going to move  
17           directly to a -- an answer of interest, if not a  
18           concern; that is, that based upon the publicity,  
19           you had come into this case believing that  
20           Mr. Avery was guilty, or at least the publicity  
21           pointed in that direction.  Do you still hold  
22           that opinion?

23   A.    Yes.

24   Q.    You also indicate, however, more importantly,  
25           that despite that initial opinion, that you would

1           be able to set that aside and base your decision  
2           solely on the evidence in this case; do you still  
3           hold that opinion?

4    A.   Well, yes, to a point.

5    Q.   Well, you better explain that.  What does that  
6           mean?

7    A.   Well, from the news coverage, I would guess that  
8           Mr. Avery is guilty.  In fact, I would say he is  
9           guilty from the coverage, from what I have heard.  
10           Now, I guess if a bolt of lightening came down  
11           and told me he was innocent, I might believe it,  
12           but it's just kind of overwhelming.

13   Q.   I understand that.

14   A.   I'm sure from what I have heard from you, that  
15           you passed out to the press, and I'm sure you  
16           have more that we haven't heard about, so ...

17   Q.   And --

18   A.   I would -- I would -- I guess at this point I  
19           would find it very difficult.

20   Q.   And so as Mr. Avery sits here, although legally  
21           he may be presumed innocent; that is, the Court  
22           may instruct you that he is presumed innocent --

23   A.   Yes.

24   Q.   -- you don't come into this case feeling that at  
25           all; is that right?

1 A. Right. I know that's backwards. I know he  
2 should be innocent, but ...

3 Q. But you wouldn't be able to set that aside?

4 A. I don't believe so.

5 ATTORNEY KRATZ: That's all the questions I  
6 have for this witness, Judge. Thank you.

7 THE COURT: Any questions for the defense?

8 ATTORNEY BUTING: No, your Honor.

9 THE COURT: All right. Mr. Wichlacz, at  
10 this point Linda will escort you from the courtroom.

11 (Wherein the juror was excused.)

12 THE COURT: Do the parties have a joint  
13 motion on this juror?

14 ATTORNEY KRATZ: Yes, Judge, the State  
15 would acknowledge that this witness should be struck  
16 for cause.

17 ATTORNEY BUTING: I join in that.

18 THE COURT: All right. Based on the  
19 witness' answers, the Court will excuse Mr. Wichlacz  
20 as a juror for cause in this case.

21 The next juror would be Donald Kickland.

22 ATTORNEY FALLON: Who is the next one?

23 THE COURT: Donald Kickland, Juror 81.  
24 Mr. Kickland, will you stand and raise your right  
25 hand, please.

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(Juror sworn.)

THE CLERK: Please be seated.

THE COURT: Mr. Kickland, you have already completed a written juror questionnaire in this case.

MR. KICKLAND: Yes.

THE COURT: This afternoon we're moving on to the next stage of the jury selection process which is called voir dire. The attorneys for each of the parties will have a chance to ask you some questions that bear upon your qualifications as a juror. For the most part, they will be follow-up questions to the information that you provided on the questionnaire.

Before we get to those questions, I can tell you that the jurors selected to serve in this case will not be sequestered during the trial. That means at the end of court proceedings each day the jurors will be permitted to return home and then report back to duty the next morning. Because of that fact, the Court is continuing the prohibition on any exposure of the jurors to any publicity regarding this case, whether it be from television, radio, newspaper, internet, or any other source.

1                   And in addition, the jurors are  
2 prohibited from discussing the case with anyone,  
3 including members of the juror's family, or even  
4 other jurors, until all the evidence has been  
5 received.

6                   Although the proceedings in court are  
7 open to the public today, because this is part of  
8 the jury selection process, the Court does not  
9 permit any cameras in the courtroom today. And  
10 the members of the media are not permitted to  
11 disclose the identity of the jurors in any news  
12 reports.

13                   If you are selected to serve as a juror  
14 in this case, I can also tell you that while  
15 there may be cameras in the courtroom covering  
16 the trial, they are not permitted to show the  
17 jurors.

18                   In the event you are chosen to continue  
19 on the jury panel after questioning today, you  
20 will receive instructions as to when to report to  
21 court again. Mr. Fallon, you are handling this  
22 one?

23                   **VOIR DIRE EXAMINATION**

24 BY ATTORNEY FALLON:

25 Q.    Good afternoon Mr. Kickland.

1 A. Good afternoon.

2 Q. My name is Tom Fallon. I'm an Assistant Attorney  
3 General with the Wisconsin Department of Justice.  
4 I'm one of the prosecutors in this case. To my  
5 immediate left is Mr, Ken Kratz, the Calumet  
6 County District Attorney. He's the lead  
7 prosecutor. Again, good afternoon and thanks for  
8 returning.

9 A. Okay.

10 Q. The attorneys have a few questions regarding some  
11 of the information you provided in your  
12 questionnaire last week and wanted to follow up  
13 on those if we may. First issue, just somewhat  
14 of a routine one. You indicate that you do wear  
15 a hearing aide so --

16 A. Yes.

17 Q. -- is that -- am I -- Do you hear me comfortably?

18 A. I hear you well.

19 Q. All right. And when Judge Willis was talking to  
20 you you --

21 A. Yes.

22 Q. -- could hear him well?

23 A. Yes. Mm-hmm.

24 Q. All right. I'm going to turn off my microphone  
25 and see how that sounds.



1 A. Okay.

2 Q. I have a couple of questions for you?

3 A. You have a couple questions for me.

4 Q. All right. So you hear that just fine.

5 A. I hear that just fine. Just like wearing  
6 glasses, I can't read without them, but it helps.

7 Q. I'm familiar with that. All right. Okay. You  
8 are a retired barber by trade?

9 A. Yes, I barbered from 1954 until 1983.

10 Q. Okay.

11 A. Got out of school in '54.

12 Q. And from 1983 to 1990, Department of -- was that  
13 Regulation and Licensing?

14 A. Yes, I worked for the Department of Regulation.  
15 I was assigned to the Barber and Cosmetology  
16 Academy Board and also the Pharmacy Examining  
17 Board.

18 Q. I see. So -- Okay. So you kind of kept your hand  
19 in the business, more or less.

20 A. Yeah. Yeah.

21 Q. All right. Did you enjoy that work?

22 A. Yes.

23 Q. All right. What did you like about it?

24 A. Well, when these people submit their application  
25 for barber shop, or beauty shop, or school,

1           electrolysis, or drugstore, they needed to send  
2           in also a floor plan. And my duties were to go  
3           to these locations and inspect them and give them  
4           their location license.

5       Q. All right. Did you -- Was that -- Were you  
6           limited to the Manitowoc County area or did you.

7       A. No.

8       Q. -- range further?

9       A. At that time, in 1983, there were three of us.  
10           We were given territories. My territory was -- I  
11           had about 80 percent of Milwaukee County, Racine  
12           County, Kenosha County, Rock County; in other  
13           words, all the way to Prairie Du Chien. Grant  
14           County, Madison. I had most -- I had the City of  
15           Madison, and therefore south.

16      Q. So you had the whole south part of the state?

17      A. Yes.

18      Q. I imagine that kept you pretty busy?

19      A. Yes, it was a nice job.

20      Q. All right. And as a result of that, I see that  
21           either from your work and your schooling, you had  
22           some background in accounting and bookkeeping?

23      A. Yes, being a barber, I guess, at the time when I  
24           was barbering, this was in the '70s I took some  
25           night courses. Help with my doing my own book

1 work and also to know people, adjustment,  
2 psychology, human behavior. I was interested in  
3 that.

4 Q. Yeah, I was going to ask you how you got from  
5 barbering to psychology, but the more I think  
6 about it, it's probably not that great a jump, is  
7 it?

8 A. No, you do listen to people.

9 Q. Right.

10 A. It helps with communication, gives you an  
11 understanding.

12 Q. All right. And how long did you study your  
13 psychology or human behavior?

14 A. Those were evening courses, like one semester of  
15 the psychology and human behavior. And the  
16 accounting was there for the same, one semester.

17 Q. Very good.

18 A. It was not to be a career. It was just something  
19 I guess I wanted to do.

20 Q. All right. And I see for your spare time you  
21 like to play golf and play cards?

22 A. Yes.

23 Q. Among other pursuits?

24 A. Yes.

25 Q. Well, how are you hitting 'em these days?

1 A. Well, it's kind of cold now, but last summer -- I  
2 do quite well --

3 Q. All right. Good for you.

4 A. -- in golfing. And in the wintertime I go to the  
5 senior center and play cards.

6 Q. All right. And what card games do you like to  
7 play?

8 A. This morning we played some sheephead (sic).

9 Q. All right.

10 A. And occasionally some cribbage. I like the  
11 numbers.

12 Q. All right. And you, I take it for some of the  
13 organizations you belong to, in addition to the  
14 church and bowling, you are a volunteer driver  
15 for Red Cross?

16 A. Yes, I did that from 1992 until they terminated,  
17 at December 31st of 2006. So I gave them over 14  
18 years.

19 Q. Very well. And something, a Mason, past member,  
20 tell me little bit about your Mason experience?

21 A. That's as a Mason, I'm an active Mason now.

22 Q. All right.

23 A. I'm a past member of maybe a Fish and Game and  
24 Isaac Walton league.

25 Q. Oh, all right. I misread that.

1 A. Yeah, I was involved with Isaac Walton League for  
2 many, many years.

3 Q. I see.

4 A. And past president, 1974. State director a few  
5 years. And let's see, Fish and Game, just more  
6 of a friendship.

7 Q. All right. Well, I would like to talk to you a  
8 little bit more now about some of the things that  
9 are more directly related to the business at  
10 hand. And I see from your questionnaire, you  
11 know a few people that may or may not appear as  
12 witnesses in this case. You know Mr. Curt Drumm?

13 A. Okay. My wife is -- It's through my -- Basically  
14 she's -- she's a teacher with the -- out at  
15 Woodland Dunes. And I know he's a member there.  
16 And they had a retirement party over here at the  
17 Maritime Inn at that time for Bernie when he  
18 retired. It's more -- more due to a social  
19 thing. I have never went out with him or eat  
20 with him, or this and that. Just know who he is.

21 Q. You just know who he is. Okay. Well, how about  
22 Lieutenant Todd Hermann; how do you know him?

23 A. From 19 -- let's see 1992, approximately 15  
24 years, Tom Kocourek came to the Isaac Walton  
25 League soliciting for some money so they have a

1 place for rifles and that stuff here at the  
2 county, across the street here at the County Jail  
3 here.

4 Q. Okay.

5 A. I guess he was soliciting money. And we gave him  
6 some money for that. And he also brought up that  
7 they are having a volunteer program. And when I  
8 heard that, I approached him on it at that  
9 meeting, that I would be interested in  
10 volunteering. And he told me I should contact  
11 his secretary, Leist. I believe her name is  
12 Leist. I don't quite remember exactly. So I got  
13 a hold of her the next day. And I registered.

14 And then I think Mike Bushman and Rick  
15 Torrington were the two people that trained a few  
16 of us to be volunteers with the Sheriff's  
17 Department. Basically, we took the cars to get  
18 them washed, take them to like Maritime Ford and  
19 to garages to have them repairs, take them to  
20 Quick-Lube for oil changes. Did some escort for  
21 funerals.

22 Oh, yeah, then we escorted a building to  
23 the Historical Village. Deliver supplies. It  
24 had nothing to do with enforcement or  
25 investigation. Strictly -- It's mostly with the

1 cars and transportation escorts.

2 Q. Background support?

3 A. Yeah, that's basically it.

4 Q. Sure. And that's -- so that's your only  
5 acquaintance?

6 A. Yeah, basically, yes. There were times maybe  
7 Mike Bushman wasn't there, then Hermann was  
8 there. He just told us to take this car and that  
9 car. So nothing -- nothing outside of the  
10 volunteer time.

11 Q. Sure. And how about Tom Kocourek?

12 A. Well, he was sheriff at the time.

13 Q. All right.

14 A. So there was always an appreciation. And there  
15 was some certificates given out for volunteer  
16 hours and, of course, you get to shake his hand.  
17 He thanked us.

18 Q. All right.

19 A. In other words, nothing to do with investigation  
20 or enforcement.

21 Q. All right. So it's just -- in other words, you  
22 don't really know him well, you just met him  
23 through your volunteer work and a couple of hand  
24 shakes?

25 A. Yes. And then I do volunteer at Holy Family

1 Hospital for their network and occasionally I see  
2 him walking through and we say hi.

3 Q. All right.

4 A. But that's about it.

5 Q. Just a casual acquaintance, then?

6 A. They do that with everybody as a courtesy.

7 Q. Casual acquaintance, then?

8 A. I -- If you asked me how many children he has, I  
9 don't know.

10 Q. Okay. Fair enough. All right. Well, as you  
11 might suspect, with a case like this, there's  
12 been a fair amount of publicity. And in your  
13 questionnaire, you report that you are at least  
14 aware of some of the publicity associated with  
15 this case?

16 A. Until I got the letter from Judge Willis' office  
17 approximately January, I believe around the  
18 middle of January, the 15th, I will say, not to  
19 watch television, read the paper and things like  
20 that and I abide by it.

21 Q. All right. And so, well, prior to receiving that  
22 letter, were you at least aware of some of the  
23 publicity in the case?

24 A. I read the paper.

25 Q. All right. So you have a general idea of what's



1 going on?

2 A. Yes.

3 Q. All right. And did you read the paper regularly,  
4 daily?

5 A. Well, I subscribe to the Manitowoc Herald-Times  
6 and I read it every day.

7 Q. Okay.

8 A. Except until the last three or four weeks now, I  
9 kind of omit the trial, which we were asked to  
10 do. So I had not read that. When I see the  
11 headlines, that's as far as it goes.

12 Q. All right. Well, you were asked a question and  
13 this is one of great interest to all of us here  
14 and that is whether, based on all the information  
15 that you had available to you, prior to receiving  
16 the Judge's letter, whether you had any opinion  
17 as to whether Mr. Avery is guilty or innocent.  
18 And you answered no.

19 A. I learned one thing, you have to learn what the  
20 facts are and see what the evidence are.

21 Q. All right. So you formed no opinion as you sit  
22 here today?

23 A. I have no opinion.

24 Q. All right. Well, associated with that is, do you  
25 think that if you were selected as a juror in

1           this case you could decide the guilt or innocence  
2           of Mr. Avery solely on the information which was  
3           presented during the course of these proceedings?

4    A.    I will listen to all, everything.  I will listen  
5           to everything first and then after, when it's  
6           done, I would then make my decision.

7    Q.    Okay.  And you are willing to work with your  
8           other jurors in reaching that decision, I assume?

9    A.    I will do my best.

10   Q.    All right.  Now, you realize that the State,  
11           that's Mr. Kratz and myself and one of our other  
12           colleagues, we're the ones with the burden of  
13           proof; in other words, we have to prove that  
14           Mr. Avery is guilty, beyond a reasonable doubt.  
15           And if we fail to do that, then you must return a  
16           verdict of not guilty; do you understand that?

17   A.    Yes, I understand that.

18   Q.    All right.  And as part of that, Mr. Avery  
19           doesn't have to say or do anything.  The only  
20           burden in this courtroom is on the State, the  
21           prosecution, to try and convince the jurors that  
22           he is guilty beyond a reasonable doubt; do you  
23           understand that?

24   A.    I would listen to both sides and make my  
25           evaluation from that.

1 Q. But if they chose not to put on any case and the  
2 only evidence you had was the evidence that was  
3 presented by the State, and if after you saw it  
4 and you thought and thought and thought and you  
5 talked with your fellow jurors and you just  
6 didn't think the State had proven his guilt,  
7 beyond a reasonable doubt, would you vote not  
8 guilty?

9 A. Yes, not guilty.

10 Q. All right. Now, I see you did serve on a jury  
11 once before; is that correct?

12 A. Yes.

13 Q. All right. Can you tell me a little bit about  
14 the case, as best you can remember, looks like it  
15 was a while ago?

16 A. I don't remember the exact year. Seems to me 6,  
17 8 years, late '90's, maybe 2000. I just don't --  
18 I don't -- I didn't write it down, so. I -- I  
19 was called in a couple times. And the time that  
20 I sat on a jury, it -- it -- what the case was  
21 about was forgery. It was a forgery and they had  
22 the evidence. And they had -- it involved a bank  
23 and all the proof was there.

24 Q. Okay.

25 A. They had witness forgery. It was a forgery case.

1           We reached a verdict on that case.

2       Q.    And you found the person guilty?

3       A.    Yes, the jury found the person guilty.

4       Q.    All right.  Now, during that case, did the person  
5           who was accused of committing the forgery, did  
6           that person take the witness stand or choose not  
7           to, or do you recall?

8       A.    I -- I will be honest with you, I don't remember.  
9           I remember the witnesses being there.  I do not  
10          know if she was on -- no, I just -- just don't  
11          remember if she was on the witness stand or not.

12      Q.    Well, we ask that because that's of some interest  
13          to all of us here and want to make sure that you  
14          understand that a defendant need not take the  
15          stand, doesn't have to take the stand, doesn't  
16          have to say anything.  And as the rules are, you  
17          can't hold that against him or consider their  
18          failure to take the stand in deciding whether  
19          they are guilty or not guilty; do you understand  
20          that?

21      A.    Yes, I understand that.

22      Q.    And you accept that principle?

23      A.    When a person makes a decision not to go on the  
24          stand that's -- that's -- that's their affair and  
25          I understand that.

1 Q. Okay. So, and you can decide this case without  
2 paying any mind to that?

3 A. Yes, I can do that.

4 Q. All right. Now, just a couple of other  
5 questions. Based on your, you know, experience  
6 in regulation and licensing and your experience  
7 as a juror and just your general experiences in  
8 life, as you go about solving a problem, as you  
9 go about formulating an opinion or an idea, do  
10 you consider yourself kind of a picture person or  
11 more of a detail oriented guy?

12 A. I was a -- Myself and what I am and what I do, to  
13 me is, I'm not a big picture person. I'm more  
14 down to earth. I don't have a problem helping  
15 people across the street, that's what we do with  
16 the Red Cross. You need patience, you need to be  
17 able to open up doors for other people, show a  
18 little courtesy. It doesn't matter who it is, if  
19 it's young or old.

20 Q. Right. Well, in terms of do you -- are you one  
21 who pays close attention to details or not so  
22 much?

23 A. Well, to help and assist other people you have to  
24 be very tentative. You have to be able to pick  
25 up what they -- without being asked to do, to go

1           in and pitch in and help them out. You can see  
2           that.

3    Q.    Sure.

4    A.    Yes, you do pay attention to other people.

5    Q.    Okay.

6    A.    It's very, very important.

7    Q.    In your spare time, do you ever work on puzzles?  
8           Do you like to work on puzzles, or do you not?

9    A.    Puzzles?

10   Q.    Yeah.

11   A.    No, I'm a reader.

12   Q.    You're a reader.

13   A.    Yeah, I'm reading Michener right now, Chesapeake.  
14           It's a bay out on the east coast.

15   Q.    James Michener novel?

16   A.    I like novels.

17   Q.    You said you were reading Chesapeake?

18   A.    Yes, by Michener.

19   Q.    By Michener.

20   A.    That's what I'm reading now. I like to read. I  
21           rather do that than set puzzles.

22   Q.    All right. Do you dislike puzzles or just  
23           don't --

24   A.    No, I don't mind puzzles. I just rather read.  
25           It's just a matter of choice.

1 Q. All right. I see that you do watch a show, like,  
2 called Crime Scene Investigation, CSI?

3 A. I kind of watch it on Thursday night, yeah. I  
4 got interested in it a couple of years ago and I  
5 have been following that one.

6 Q. So, and you found that show somewhat realistic?

7 A. It's interesting. It's fun, some appears to be  
8 real, yes.

9 Q. And some not so realistic?

10 A. Well, I'm not sure.

11 Q. Okay.

12 ATTORNEY FALLON: I'll pass the juror.

13 THE COURT: Mr. Strang.

14 ATTORNEY STRANG: Thank you.

15 **VOIR DIRE EXAMINATION**

16 BY ATTORNEY STRANG:

17 Q. Dean Strang, Jerome Buting, Steven Avery.

18 A. Good afternoon.

19 Q. Collectively the defense. And I want to go back  
20 just a little bit on some background that  
21 Mr. Fallon touched on. How long have you been a  
22 Mason?

23 A. Late '70s.

24 Q. And --

25 A. 1970, late '70s.

1 Q. If you don't mind my asking, what degree have you  
2 attained?

3 A. Well, I -- I took the ark (phonetic) right, so I  
4 ended up at the Triple I Shrine down in  
5 Milwaukee. Then, being out of town a lot and  
6 then I took a demit from it so. From all the  
7 bodies except a Mason. I'm retired so I took  
8 demit from the Shrine.

9 Q. Okay. And you retired now?

10 A. I'm going to -- I'm 71. I will be 72 in April,  
11 29th.

12 Q. The -- The work you did for the Department of  
13 Regulation and Licensing, that was paid work, I  
14 think, right, or were you volunteering there too?

15 A. Oh, no, I was employed by the Department of  
16 Regulation and Licensing. I think I was about 48  
17 years old when I made the change from my own  
18 business as a barber here in Manitowoc. And  
19 through a friend that encouraged me to apply for  
20 it, they were looking for two people at that  
21 time. He thought I would make a good State  
22 inspector?

23 Q. Mm-hmm.

24 A. -- and investigator for the Cosmetology and  
25 Barber Examining Board at that time. And I took



1 the test and got a pretty good score and got the  
2 job.

3 Q. What -- Did you think of that in a sense as law  
4 enforcement?

5 A. When I applied for it, it was the understanding  
6 that I would investigate their complaints.

7 Q. Right.

8 A. And do their inspection for a new location and do  
9 unannounced inspections.

10 Q. Right. Right.

11 A. And their complaints would involve like  
12 unlicensed practice.

13 Q. Mm-hmm.

14 A. And also you need a little knowledge about hair.  
15 People do, as far as being competent, people do  
16 get burns in their skin from the perm burns --

17 Q. Right.

18 A. -- and stuff like that.

19 Q. Right.

20 A. And heat. And unsanitary practice like soiled  
21 towels and things. You need to change towels on  
22 every patient or customer, things like that.

23 Q. So what drew you to this sort of law enforcement  
24 aspect of that work?

25 A. The law enforcement, well, they have the Barber

1           Cosmetology Examining Board. And I also, later  
2           on, I did the Pharmacy Examining Board. They do  
3           have Administrative Code, which was set up by  
4           their examining board, which needs to be  
5           enforced.

6    Q.    But what -- And my question is, what drew you to  
7           want to do that sort of law enforcement work?

8    A.    Okay. There's a fellow by the name of Mr. Hansen  
9           and he worked for social service. He encouraged  
10          me to take this up. It was his idea. Actually,  
11          I turned him down. And he approached me again on  
12          it and asked me if I sent in that application. I  
13          said, no, he said I have one with me, would you  
14          sign it. I said, yes. So it was actually an  
15          encouragement through another person.

16   Q.    Okay. And, then, when you were looking for some  
17          volunteer work, you have done a lot of volunteer  
18          work over --

19   A.    Yeah, fire department, Silver Creek Fire  
20          Department, spent some years there. Yes, I did.

21   Q.    Isaac Walton, Holy Family Hospital.

22   A.    Yes, active right today. In fact, I was  
23          scheduled at Harbortown from 12 to 4. And I left  
24          there at 2:00 to meet my appointment with you  
25          people.

1 Q. So what was the -- Since you have so many  
2 volunteer activities and opportunities, what was  
3 the attraction to doing volunteer work for the  
4 sheriff's department in particular?

5 A. Oh, okay. As I explained, in 1992, it was in the  
6 wintertime, like about this time of the year.  
7 The sheriff, Tom Kocourek, came to the Isaac  
8 Walton League and also he was there to raise some  
9 funds to have a rifle range over here at the  
10 jail.

11 Q. Right. Yeah, and I don't mean to interrupt. I  
12 don't mean to interrupt. I heard the story --

13 A. Okay.

14 Q. -- of how you heard about it.

15 A. Mm-hmm.

16 Q. But what was attractive about doing that? Why  
17 did you --

18 A. When I asked him --

19 Q. -- choose to do that?

20 A. When I asked him what it involved with, he told  
21 me about the cars and transportation, escorting,  
22 things like that. I said, good, that gets me out  
23 in the county, get a chance to take things to  
24 Mishicot. We made a couple trips to the nuclear  
25 plant. Then he said, funeral things, well, I

1           like people, I like to get out.

2       Q.    Okay.

3       A.    Kind of get to know your surrounding area here in  
4           Manitowoc County.

5       Q.    And interact with people?

6       A.    Yes, I like people best.

7       Q.    Okay.  When you first heard about the crimes  
8           charged here, did they -- did they shock you?  
9           Did they horrify you?  What was your reaction?

10      A.    You mean the crime, like?

11      Q.    The crimes charged here, the accusations against  
12           Mr. Avery?

13      A.    I think any crime that I hear, as well as  
14           Mr. Avery's, it's -- it's -- it's a shock.

15      Q.    And did you react to that here?  I mean this  
16           isn't any crime.  I mean, a young woman going  
17           missing and then being found dead and someone  
18           being arrested is unusual here?

19      A.    Well, I don't know either one, but to me it is --  
20           I have feelings for people.

21      Q.    Right.

22      A.    All people.  And when something tragedy happens,  
23           I mean, it's sad.  I mean, it's something that  
24           needs to be checked out, found out and just see  
25           what's going on.  Let's get the facts.

1 Q. Right. And here he is, this is the man the State  
2 of Wisconsin has hailed into court, so to speak.  
3 Do you think he's probably done something wrong  
4 otherwise he wouldn't be here?

5 A. I don't know. I really don't know if he did  
6 something wrong or not. I have -- It's what one  
7 party says and what another party says.

8 Q. Okay.

9 A. I have to sort that out.

10 Q. Let's follow that up a little bit. You explained  
11 to -- when Mr. Fallon was questioning you, that  
12 you would listen to everything --

13 A. Right.

14 Q. -- here before deciding, making a decision only  
15 at the end. And that's good, but I need -- we  
16 need to go one step further on that. The -- the  
17 essential further step is in hearing and  
18 listening to everything here and deciding the  
19 case after you have heard everything here, can  
20 you also put aside everything you heard before  
21 you came to the courtroom?

22 A. I was -- I was -- I should be able to handle  
23 that. I think I can do that.

24 Q. So, in other words, I think the Court will tell  
25 you, will instruct you at the end, that you get

1 to decide the case only on the evidence you have  
2 heard in court?

3 A. That's correct.

4 Q. Is that something you can do?

5 A. That I can do.

6 Q. Now, he will tell you you don't set your common  
7 sense aside or leave that at the door, but in  
8 terms of evidence, you don't get to consider what  
9 you heard before you came to court; do you  
10 understand that?

11 A. Anything in the past is in the past, we start  
12 today.

13 Q. Right. And you would not consider what you heard  
14 in the past?

15 A. No, we will not use the past.

16 Q. Okay.

17 A. Only from today on, whatever we hear, that's what  
18 we would make our decision on.

19 Q. Okay. And there's a natural inclination to want  
20 to hear both sides of the story, I suppose,  
21 right, to make a fair decision?

22 A. Yes.

23 Q. But you may not hear both sides, or both sides  
24 equally, in a criminal case. Because only the  
25 State has any burden of proving anything to you.

1 Do you understand that?

2 A. Yes, I understand that.

3 Q. And while we don't sit like bumps on a log,  
4 neither will we necessarily try to prove to you  
5 anything. In other words, I may not try to prove  
6 that Steven Avery is innocent. I may concentrate  
7 on showing that they have not proved him guilty.

8 A. Okay. I understand that.

9 Q. You understand the difference?

10 A. Yes, I do.

11 Q. And let's get at that a little bit. Let's  
12 suppose at the end of all of the evidence, you  
13 have heard their witnesses, maybe we'll call some  
14 witnesses, maybe not, but you have heard all the  
15 testimony, you have heard the arguments of the  
16 lawyers on both sides.

17 Now you are back with 11 other people  
18 and you are going to decide, okay. And let's say  
19 you, personally, come to the decision that, you  
20 know, Mr. Avery might be guilty. Maybe he --  
21 maybe I even think he is probably guilty. But  
22 I'm not convinced, beyond a reasonable doubt,  
23 that he is guilty. I don't know if he's  
24 innocent, because they didn't prove to me he is  
25 innocent either. I think he may be guilty. He

1 is probably guilty. But I don't believe it  
2 beyond a reasonable doubt. What verdict would  
3 you vote to return if that's how you weighed out  
4 all the evidence?

5 A. What verdict, would I give? If you don't give me  
6 unreasonable doubt, then he would be not guilty.

7 Q. Okay. In other words, if he is maybe guilty,  
8 your verdict would be not guilty; did I  
9 understand you?

10 A. Well, I know, the way you explained it to me, you  
11 have to prove that he is guilty. If he's not  
12 proven, then he's not guilty.

13 Q. Beyond a reasonable doubt?

14 A. Reasonable doubt, correct.

15 Q. Okay. All right. Let's -- let's consider the  
16 possibility that he does not testify. And I  
17 think you said, well, that's his own affair?

18 A. Right.

19 Q. In some ways, though, it's your affair if you are  
20 on the jury. And I think the Court would tell  
21 you, if Mr. Avery chose not to testify, that you  
22 simply could not consider that. It's not  
23 evidence of guilt. It's not evidence of  
24 anything. It's not evidence at all. Could you  
25 work within that rule?



1 A. Yes, I can work with that rule.

2 Q. Now, suppose he does testify, let's suppose, for  
3 whatever reason, we all here decide that he is  
4 going to testify and he gets up on the stand.  
5 Are you going to be sitting there saying, well,  
6 how can I believe what he says, he is, you know,  
7 he is the guy in the hot seat. He's the guy with  
8 everything to lose. Are you going to say that or  
9 will you be able to listen to him just like any  
10 other witness?

11 A. I would listen to him. Because in the past, when  
12 I went to a beauty shop or a barber shop, I  
13 listened to everybody.

14 Q. Okay. Probably 29 years as a barber, my guess is  
15 you heard a whole lot of gossip.

16 A. Well, everybody has things to tell me.

17 Q. Some of it turns out to be right?

18 A. And some is very interesting too.

19 Q. Right. Okay. And that's why we do what we do in  
20 courtrooms?

21 A. I understand.

22 Q. To try to weed out some of the stuff that just  
23 might be very interesting, but not so red hot in  
24 it's reliability. That you can do?

25 A. Yes, I can do that.

1 Q. Okay. Having now worked in law enforcement with  
2 the Department of Regulation and Licensing and  
3 volunteered for six years or something at the  
4 sheriff's department; do you tend to think that  
5 law enforcement officers, people with a badge,  
6 are more likely to be truthful than all of the  
7 rest of us?

8 A. Okay. When I was with the sheriff's department  
9 that was -- that's almost nine years ago since I  
10 left them. And I would -- I would say the people  
11 that I associated with, with the State of  
12 Wisconsin, I will go back it up there with them  
13 first. I worked with other -- other  
14 investigators and therefore and inspectors and I  
15 respect them.

16 And the same thing here, if it's a  
17 voluntary thing, you go there in the morning and  
18 they send you out with the cars and stuff so you  
19 really don't get in depth with them too much.  
20 They are not there to mislead us, just take the  
21 car, do this, drop this and that off. So it was  
22 very -- it was very -- congenial, I mean.

23 Q. Right.

24 A. It was more or less a fun thing. They made it  
25 fun and made it easy for us. Our opinion, they

1           were very thoughtful of us volunteers.

2       Q.    And my question is, with those warm feelings for  
3           good police officers --

4       A.    Yeah.

5       Q.    -- does that carry over to where you would say,  
6           you know, I trust police officers and their word  
7           more than I trust other people, just because of  
8           the job they have?

9       A.    Well, I'm basing it on my experience with them,  
10          yes. Same as at Holy Family Hospital. I respect  
11          the coordinator of volunteer services.

12      Q.    Mm-hmm.

13      A.    You respect them and you trust them.

14      Q.    But the rules here will be, I think as the Court  
15          will tell you --

16      A.    I understand.

17      Q.    -- that all witnesses come on equal. It doesn't  
18          matter what clothing they wear or whether they  
19          have a badge?

20      A.    No, doesn't matter.

21      Q.    They are all human. You consider their testimony  
22          all in the same sorts of ways?

23      A.    Right. Yeah, being a Mason, you have to respect  
24          everybody and your leaders.

25      Q.    Okay. And that's something you can do here?

1 A. Yes.

2 Q. Do you think it's possible that a law enforcement  
3 officer could lie under oath?

4 A. Yes, they can lie.

5 Q. Even under oath?

6 A. Some do.

7 Q. How do you know that?

8 A. Reading books.

9 Q. Okay.

10 A. Reading books, reading somebody's non-fictions.

11 Q. And I suppose other witnesses can lie under oath,  
12 too, can't they?

13 A. It can happen, yeah. That's something that  
14 doesn't end.

15 Q. What if it -- What if you heard evidence that  
16 went beyond that and went to planting evidence?

17 A. I have to listen to it, I have to know what the  
18 facts are.

19 Q. Okay. You are not just going to rule that out,  
20 say that's ridiculous, could never happen?

21 A. No, no, no, I would not rule that out. I would  
22 -- I like to hear about it. I like to know what  
23 I'm talking about.

24 Q. Okay. Have you heard anything about a blood  
25 vial, a tube of blood in this case?

1 A. That's about it. I know of it and then of course  
2 I haven't followed up on it in the last almost  
3 four weeks.

4 Q. And that's because of the letter you got from the  
5 court or some other reason?

6 A. Well, I think it was -- I think it was on news  
7 before I got the letter from the court.

8 Q. Right. And what did you learn about this tube of  
9 blood?

10 A. Nothing, I don't know.

11 Q. Okay. In terms of planting evidence, how much  
12 proof is it that you would want before you  
13 decided something was or was not planted?

14 ATTORNEY FALLON: I object to that  
15 question.

16 THE COURT: That objection is sustained.

17 Q. (By Attorney Strang)~ What -- What kinds of  
18 things other than Mr. Michener and his books do  
19 you like to read?

20 A. Oh, I read Liberia (sic).

21 Q. Other -- other than -- other than James Michener?

22 A. Oh, I see. Others. I was thinking of other  
23 books that he wrote, I'm sorry.

24 Q. No, no. What kind --

25 A. My mistake, you said it right. I kind of like

1 Clancy, some of his non-fictions are pretty good.  
2 Don (sic) Clancy, he wrote some nice --  
3 especially *General Horner*, he was pretty  
4 interesting over there, back in the '90s there.  
5 Ended up running to space, pretty interesting.  
6 Stuff like that.

7 Q. Okay. Two more quick things. What do you know,  
8 if anything, about Mr. Avery's past?

9 A. None. Oh, well, I shouldn't say none. I don't  
10 know him as a person, except that he was released  
11 from prison. He was found innocent of a rape  
12 charge.

13 Q. And is that something you accept?

14 A. Why, sure. It's public record. I mean, it shows  
15 that he was not guilty. I except that fact.

16 Q. And last question, or maybe two if there's a  
17 follow-up. But do you want to serve on this  
18 jury?

19 A. I would be willing to do that.

20 Q. But do you want to?

21 A. Yes.

22 Q. Why?

23 A. Well, when I was a young fellow, I was drafted.  
24 This was at the end of the Korean War, 1953. I  
25 graduated, the Korean War ended shortly after I

1 was drafted. I wanted to serve my country. Of  
2 course, they didn't have hearing aids like they  
3 do now.

4 But anyway, they told me that, we're not  
5 going to draft you. We're going to give you 4F  
6 because you have a hearing problem. And I might  
7 miss an assignment and cause some lives. Those  
8 fellows served two, three years for their country  
9 and more. And this gives me a chance to serve my  
10 county, my community.

11 Q. And your country?

12 A. I want to do that. It gives me a chance to do  
13 something. I'm going to be 72 and I would be  
14 willing to do that.

15 Q. Thank you.

16 THE COURT: All right. Thank you,  
17 Mr. Kickland, Linda will escort you from the  
18 courtroom at this time.

19 MR. KICKLAND: Thank you.

20 (Wherein the juror was excused.)

21 THE COURT: Counsel, any motion from either  
22 party?

23 ATTORNEY FALLON: No motion from the State.

24 ATTORNEY STRANG: I don't have a motion,  
25 but because I got burned a few years ago in a case

1 in Richland County, I do have some residual  
2 questions about his hearing. With both lawyers  
3 there were some answers that were not responsive to  
4 the questions. It was okay when we were up very  
5 close to the microphones.

6 But I do have some concern about that.  
7 And I also have a strong feeling that people with  
8 a hearing disability ought to be able to serve on  
9 juries, but as I say, I got burned on that. I  
10 made that mistake before.

11 THE COURT: All right. Mr. Kratz.

12 ATTORNEY KRATZ: Thank you, Judge. Calumet  
13 County is blessed with a system which allows for and  
14 encourages individuals with hearing problems to  
15 serve. We have hearing assistance devices for  
16 jurors. And should Mr. Kickland be invited to serve  
17 on this case, that would be available to him in  
18 Calumet County.

19 THE COURT: All right. My own impression  
20 was, I know Mr. Fallon turned his microphone off and  
21 spoke to the juror and I had trouble hearing a  
22 little bit. I mean could hear what Mr. Fallon was  
23 saying, but I think without the benefit of the  
24 microphone it was not that loud and I thought that  
25 the juror heard it pretty well.



1                   I think certainly with the benefit of a  
2                   hearing assistance device, which I also use in my  
3                   courtroom periodically, I think it should work.  
4                   And I also try to watch the witnesses myself to  
5                   make sure they get up to the microphone and  
6                   invite any juror who can't hear any answer to  
7                   raise their hand during the course of the trial  
8                   whether they have a hearing problem or not and  
9                   ask them to repeat it. So I agree that can be a  
10                  problem in some cases, but I thought he -- he did  
11                  well.

12                 ATTORNEY STRANG: As long as we all keep an  
13                 eye on it, I think he would be fine.

14                 THE COURT: Okay. Thank you. I know the  
15                 parties mentioned they may have some motions  
16                 regarding other jurors; how about Juror 86, she's  
17                 next on the list, are there any objections to her?

18                 ATTORNEY FALLON: Well --

19                 THE COURT: If she --

20                 ATTORNEY BUTING: Question 74 and 69.

21                 Question 74 and 69 are the --

22                 THE COURT: Okay. Let me check.

23                 ATTORNEY STRANG: The context would be --

24                 ATTORNEY BUTING: And 43.

25                 THE COURT: I'm sorry. I'm looking at

1 Question 74; what were the other numbered questions?

2 ATTORNEY BUTING: 43 and 69.

3 ATTORNEY FALLON: Okay. I'm sorry, the  
4 questions for the next --

5 ATTORNEY STRANG: The questions for Debra  
6 Nicholson.

7 ATTORNEY FALLON: Do we have one juror  
8 after No. 86?

9 THE COURT: We have three more, actually.  
10 Next juror would be 90.

11 ATTORNEY FALLON: 91.

12 THE COURT: Oh, 90 and 91.

13 ATTORNEY FALLON: Oh, yes. Okay.

14 ATTORNEY STRANG: We have some concern  
15 about 91; although, I think that looks on paper like  
16 a better bet than 86 -- No. 86.

17 THE COURT: Is the defense asking to have  
18 86 excused for cause before questioning?

19 ATTORNEY STRANG: I would if it will speed  
20 things up. I also -- I understand that this is an  
21 on the bubble situation.

22 ATTORNEY FALLON: If you were to look off  
23 paper, No. 90 might be the surest bet, but it all  
24 depends on whether you want to deviate from the  
25 order.

1 THE COURT: Well, we have 86, 90, 91, and  
2 93 here.

3 ATTORNEY FALLON: I think two out of four  
4 look pretty good. You might have three out four  
5 depending on how you want to do it.

6 THE COURT: We need one by my count.

7 ATTORNEY FALLON: Right.

8 THE COURT: Will the parties stipulate to  
9 passing over 86 and moving on to 90?

10 ATTORNEY STRANG: Sure, not striking her  
11 but passing over her?

12 THE COURT: And if she gets selected, she  
13 would be No. 30.

14 ATTORNEY FALLON: This next one would be  
15 the last --

16 ATTORNEY STRANG: But does that include  
17 Mr. Guckeisen?

18 THE COURT: Yes. He is in in any event  
19 now, even if 86 -- 86 if accepted would be 29 and  
20 Mr. Guckeisen is 87, he would be 30.

21 ATTORNEY STRANG: I see, okay. No, then I  
22 don't have any problem with going to No. 90.

23 THE COURT: All right. So the parties are  
24 not going to ask the Court to excuse 86 at this  
25 time, but are you going to stipulate to taking the

1 juror out of random order and questioning Juror 90,  
2 first?

3 ATTORNEY STRANG: I think to be very  
4 technical, I am moving to excuse No. 86 for  
5 subjective bias, but I have no problem if the Court  
6 wants to hold that in abeyance and moot it out.

7 THE COURT: All right. With the  
8 understanding that if 90 is in, the game is over.

9 ATTORNEY STRANG: If that's the count,  
10 right.

11 THE COURT: Okay. All right. All right.  
12 Let's have Ms Piaskowski in, then.

13 Ms Piaskowski, if you will please raise  
14 your right hand, the Clerk will administer the  
15 oath.

16 (Juror sworn.)

17 THE CLERK: Please be seated.

18 THE COURT: Ms Piaskowski, you have already  
19 completed a written jury questionnaire in this case.  
20 Today we're moving on to the next step in the jury  
21 selection process which is voir dire.

22 The attorneys for each of the parties  
23 will have an opportunity to ask you some  
24 questions pertaining to your qualifications as a  
25 juror. For the most part, they will be follow-up

1            questions to the information that you provided on  
2            your questionnaire.

3                        Before we get to those questions, I can  
4            tell you that the jury selected in this case will  
5            not be sequestered; that means that after each  
6            day of the trial the jurors will be permitted to  
7            return home. Because we're allowing the jurors  
8            to return home, the prohibition on any exposure  
9            to news media coverage will continue. That means  
10           the jurors will be prohibited from being exposed  
11           to any information about this case on the  
12           television, radio, newspaper, internet, or any  
13           other source.

14                        And in addition, the jurors are  
15           prohibited from discussing the case with anyone,  
16           including members of the juror's family and even  
17           the other jurors until it's time to deliberate at  
18           the close of the case.

19                        The court proceedings today are being  
20           held in open session, but the Court does not  
21           permit cameras in the courtroom during the voir  
22           dire proceedings and the news media is not  
23           permitted to disclose the identity of the jurors  
24           in their news reports.

25                        In addition, should you be selected as a

1 juror in this case, you should know that while  
2 there may be cameras in the courtroom covering  
3 the trial, they are not permitted to show the  
4 jurors.

5 In the event you remain on the jury  
6 panel after questioning today, you will be  
7 notified shortly when you are to report back to  
8 court. Mr. Fallon, at this time you may proceed.

9 **VOIR DIRE EXAMINATION**

10 BY ATTORNEY FALLON:

11 Q. Good afternoon, Ms Piaskowski.

12 A. Good afternoon.

13 Q. How are you?

14 A. I'm fine.

15 Q. My name is Tom Fallon. I'm an Assistant Attorney  
16 General with the Wisconsin Department of Justice.  
17 I'm one of the prosecutors in this case. And I  
18 would like to ask a few questions to follow up on  
19 some of the information you provided last week.

20 A. Okay.

21 Q. By the way, thank you for your patience. I'm  
22 sure we have probably interrupted your  
23 afternoon's activities. Let me first begin by  
24 asking just a couple of questions. You currently  
25 work at Lakeshore --

1 A. Cap.

2 Q. What kind of business is that?

3 A. It's Community Action Program.

4 Q. How long have you worked for them?

5 A. It will be two years. It was two years.

6 Q. And what kind of work do you do for --

7 A. I am --

8 Q. -- that program?

9 A. -- sub-contracted out at Human Services in

10 Manitowoc.

11 Q. All right.

12 A. I work in Child Protective Services.

13 Q. Okay. And since you are familiar with Child

14 Protective Services, what aspect of that do you

15 do?

16 A. I'm a family support worker.

17 Q. I see. Okay. Have you always been a family

18 support worker?

19 A. No, I haven't. I have worked as a nurse's aide

20 and still do casually. Also worked at a

21 Montessori School.

22 Q. Did you teach or were you just an aide?

23 A. Assistant teacher.

24 Q. Assistant teacher. Very good. How long -- Do

25 you still keep your hand in that, did I hear you

1 say?

2 A. No. No. They keep me pretty busy where I am.

3 Q. Okay. All right. Now, in terms of a number of  
4 interests, or at least some schooling you have  
5 had, you have checked off a number. I suspect  
6 now from what you have told us that makes sense,  
7 you have some background in law, some psychology,  
8 some medicine, some corrections. Is that as a  
9 result of the Community Action Program and the  
10 people that you work with in that system?

11 A. Yeah, there was certain courses we had to take  
12 and follow up on. My role at my job right now is  
13 going into homes and helping parents to get their  
14 children back. They are all usually under 10  
15 years old.

16 Q. All right. So this activity, it's not so much  
17 the investigative work as to determine whether  
18 services are needed, but your job is to go back  
19 in and help put the family back together and get  
20 everybody back on track?

21 A. Exactly.

22 Q. All right. Have you ever been involved in the  
23 investigative angle to determine whether or not  
24 services are needed in the first place?

25 A. No.



1 Q. Okay. So you have been strictly a service  
2 provider almost?

3 A. Right. I can make referrals if I walk into a  
4 home and feel something is unsafe. Yes.

5 Q. All right. Okay. Can you tell me a little bit  
6 about one of your hobbies, what is the  
7 Mississippi Exchange Program?

8 A. It's a long story. I'll make it very short.  
9 It's bringing up black children from the south  
10 and they stay with a Wisconsin family from  
11 anywhere, 10 days to the whole summer. And the  
12 point of the whole program is to have black  
13 children interact with white children. Where we  
14 go is the Delta. Mississippi burning took place  
15 there.

16 Q. Sure.

17 A. The Klan is still very prominent down there. So  
18 it's -- a lot of children down there have never  
19 touched white skin.

20 Q. So, this is a program to promote racial harmony?

21 A. Right. Exactly.

22 Q. Do you yourself get to travel down to the Delta  
23 area?

24 A. All the time.

25 Q. You do?

1 A. Fourteen times I have been down there.

2 Q. I'm sorry?

3 A. Fourteen.

4 Q. Okay. How often do you get down there, once or  
5 twice a year?

6 A. I go twice a year.

7 Q. Okay. I'm going to guess that you probably find  
8 that pretty rewarding?

9 A. Oh, I love it, yes.

10 Q. What's the most -- the most fun about it? What  
11 really trips your trigger? What really -- What  
12 did you like?

13 A. Um, the friendships, you know. It's an  
14 eye-opening experience, truly. Whites do not  
15 talk to me when I'm down there.

16 Q. Really?

17 A. No, I get called a "nigger lover". I get called  
18 lots of things. So, it's not Wisconsin, that's  
19 for sure. It's like visiting family again. You  
20 know, we had the same boy for nine years now. So  
21 when I go down there, I live with his family for  
22 the amount of time I stay there.

23 Q. Okay. And how often are you down there for, a  
24 week or two at a time?

25 A. Usually -- Well, I just started going down

1 longer.

2 Q. Okay.

3 A. This year it will be two weeks I stay down there.

4 Q. All right. So I imagine you have developed a  
5 fair amount of confidence in yourself and a fair  
6 amount of thick skin.

7 A. Oh, yes, very much so.

8 Q. Very good. I would like to ask you a few  
9 questions, if we may, about what you might know  
10 about this case. You may or may not know there's  
11 been a fair amount of publicity associated with  
12 it. And we would like to ask you a little bit  
13 about that. In terms of the news, where do you  
14 get most of your news from; radio, television,  
15 newspapers?

16 A. I will turn the radio on in the morning, usually,  
17 before I get the kids up, so WOMT. It will be on  
18 for maybe a half an hour or so. And then if time  
19 permits I read the paper at night. But I do not  
20 watch the news at night at all. I don't have  
21 time. Usually my cases are at night.

22 Q. Right.

23 A. The kids are -- The cases I have, the children  
24 are in school usually, so my visits are at night.

25 Q. All right. So do you work like a 3 to 10 kind of

1 hours?

2 A. I don't have set hours, it depends. Tuesday,  
3 Wednesday, Thursday I have one family that I pick  
4 the kids up from school and supervise the visit  
5 with mom until 6:30.

6 Q. Right.

7 A. Something like that. Then I return them to  
8 foster care. So I don't get home until 7, 8 --

9 Q. All right.

10 A. -- and then I spend time with my family and ...

11 Q. Hit the sack?

12 A. Hit the sack.

13 Q. All right. In terms of publicity, associated  
14 with this particular case, do you have any  
15 recollection at all; do you know much about  
16 what's going on?

17 A. Well, of course, you know.

18 Q. You are aware he's been charged with murder --

19 A. Yes.

20 Q. -- right?

21 A. Yes.

22 Q. But beyond that, are any of the details -- do you  
23 know much about any of the details?

24 A. Not the nitty gritty details, no. Of course,  
25 when it first happened, you know, everybody was,

1           you know. But I was not by any means glued to  
2           the TV watching it.

3       Q.    Right.

4       A.    I was at work. Steven Avery, as far as I know,  
5           has never been involved with Human Services or  
6           anything. I have never heard the name before all  
7           of this happened so.

8       Q.    Okay. Never heard the name before any of this  
9           case came up?

10      A.    No.

11      Q.    All right. We'll get back to that in just a  
12           moment. But I would guess about maybe three,  
13           four weeks ago, you might have gotten a letter  
14           from the Court advising you that you were a  
15           prospective juror and asking that you refrain  
16           from any of the media coverage that might be  
17           attending to the trial. Did you get that letter?

18      A.    Yes.

19      Q.    And were you able to comply with its request.

20      A.    Um, you're going to think this is -- Well, what  
21           happened was, I didn't even read that bottom  
22           paragraph.

23      Q.    Right.

24      A.    And so I just saw the top part if it and  
25           everybody is saying, are you sure it's not this

1 case. I go, I don't think so. No, I didn't get  
2 a separate letter. And, then, maybe a week ago I  
3 read -- or read the bottom. I went, oh, oh,  
4 yeah, it is -- it is Steven Avery's case.

5 So, no, I did not discuss it or talk  
6 about it, because I didn't even finish reading  
7 the whole letter, unfortunately. I read when I  
8 needed to be here and what time and that was it.

9 Q. Okay. Did you read any -- see any of the news  
10 coverage lately on the case?

11 A. Uh-uh.

12 Q. Not a thing?

13 A. I don't watch the news at night --

14 Q. Okay.

15 A. -- so. If it's in the paper, I happen to see it.  
16 And, of course, I do a jail visit here, so I do  
17 see the cameras out here --

18 Q. Right.

19 A. -- quite a bit.

20 Q. And according to the information you provided,  
21 you have no opinion, whatsoever, about anything  
22 in this case. In other words, you don't have any  
23 opinion as to whether he is guilty or innocent at  
24 this particular time?

25 A. Truthfully, I think I did until, like, I did hear

1           about one instance that I kind of changed my mind  
2           a little bit so kind of put me more neutral.

3    Q.    Okay. Well, tell us -- Well, let's start with --  
4           We'll start with how you feel right now. I mean,  
5           do you have an opinion?

6    A.    Now I'm more neutral than I was in the beginning,  
7           yes.

8    Q.    Okay. All right. And so when you say neutral,  
9           does that mean you have no opinion or it could go  
10           either way or what do you think?

11   A.    I think it could go either way.

12   Q.    Okay. What was the event that brought you to  
13           neutral or ground zero as it were?

14   A.    I started out at neutral, too. But at first I  
15           thought, no way, no, he couldn't have did this.  
16           He just got out. There's no way.

17   Q.    Right.

18   A.    And then the specific event that made me kind  
19           of -- after I heard all -- hearing what people  
20           are saying and what not, I think, oh, my gosh,  
21           yes, he did. And then the vial of blood that  
22           they were talking about.

23   Q.    What did you hear about that?

24   A.    Just that it was unlocked or available to the  
25           public.

1 Q. Okay.

2 A. Something to that sort.

3 Q. Is that something from the media or just you  
4 picked up?

5 A. Word. Word. Word of mouth.

6 Q. Word of mouth. Okay.

7 A. Yeah.

8 Q. Okay. Okay. Excuse me, one moment, I managed to  
9 run out of ink. And when did that come to your  
10 attention?

11 A. Probably was shortly when it came out in the  
12 news. I mean, I don't know exactly.

13 Q. All right. Recently or way back when?

14 A. Couple weeks ago, talking about it.

15 Q. All right. And that somehow brought you back to  
16 neutral?

17 A. I don't want to say neutral but, you know, placed  
18 some doubt in my mind, you know.

19 Q. Okay. So would it be fair to say you don't  
20 really have a strong opinion either way as to his  
21 guilt or his innocence, you just don't know?

22 A. Yeah.

23 Q. All right. Well, one of the things that you will  
24 be instructed here by the Court -- and defense  
25 counsel will talk a little bit about this as



1 well, but you will be asked, if you were selected  
2 as a juror in this case, to decide this case  
3 solely on the evidence which is presented during  
4 the course of the trial and not based on anything  
5 anybody would have told you at work or any other  
6 friend, or family member, or anything like that;  
7 that any decision reached by the jury in this  
8 case would have to be just on the evidence  
9 presented in court. Do you understand that?

10 A. Mm-hmm.

11 Q. All right. And is that a yes?

12 A. Yes.

13 Q. Okay.

14 A. Yes, I do.

15 Q. Do you think you could do that, follow that rule?

16 A. Yes.

17 Q. Okay. Is there any doubt in your mind that you  
18 would be able to base your decision solely on the  
19 evidence that's presented?

20 A. I truly hope so, yes.

21 Q. Okay. Now, a part of that, also, is the fact  
22 that the State has the burden of proof here. I  
23 would imagine you are familiar with that from  
24 your work in protective services. But the State  
25 is the one who has to prove that someone is

1 guilty, beyond a reasonable doubt. Correct?

2 A. Right.

3 Q. And if they can't do that, then the jury must  
4 come to the decision of not guilty?

5 A. (No verbal response. Nods head.)

6 Q. All right. You accept that?

7 A. Yes.

8 Q. All right. And that would include, even if for  
9 instance Mr. Avery and his attorneys chose not to  
10 put any evidence in at all and the only evidence  
11 that you had to consider was that presented by  
12 the State. And if they didn't convince you, if  
13 we didn't convince you, beyond a reasonable  
14 doubt, of his guilt, you would have to vote not  
15 guilty?

16 A. (No verbal response. Nods head.)

17 Q. All right. And you would -- you understand that?

18 A. Yes.

19 Q. And you could do that if that's what you felt in  
20 your heart-of-hearts, after all the evidence is  
21 in you say, geez, maybe he is, or he might be,  
22 but I'm not convinced beyond a reasonable doubt,  
23 so I have got to vote not guilty?

24 A. Yes.

25 Q. You understand that?

1 A. Yes.

2 Q. And you could do that if that was what you -- the  
3 decision you came to?

4 A. Yes.

5 Q. Okay. All right. Math is never a favorite  
6 subject.

7 A. I was going to say what are you laughing at.

8 Q. Well, I share your pain.

9 A. Yes, my children do too.

10 Q. You have a friend who's a detective in the  
11 Juvenile division, I see, or not?

12 A. Yes, I do, but he got a promotion so -- and I  
13 never got a chance to even -- can I say his name?

14 Q. Oh, sure, please. We were going to ask who he  
15 might be.

16 A. Oh, Larry Ledvina.

17 Q. Larry --

18 A. Ledvina.

19 Q. Ledvina. Okay. Does he work for the sheriff's  
20 department, police department or ...

21 A. He's with the -- I have to look at somebody for  
22 help.

23 ATTORNEY BUTING: Sheriff.

24 A. Sheriff. Is that where he is? You can tell we  
25 don't talk work when we do go out. His son and

1 my son are very, very good friends.

2 Q. Are good friends.

3 A. And I work with his wife so.

4 Q. Okay. But you don't talk any law enforcement  
5 shop as it were?

6 A. No, no. I get told I don't park in the white  
7 lines sometimes, you know, in front of the  
8 building, but no we don't talk shop.

9 Q. So you don't talk -- So you have a deal, you  
10 don't talk child support services and he doesn't  
11 talk law enforcement?

12 A. No, not too often. When he was with juveniles  
13 and we did respite, I would say, do you know this  
14 kid, oh, yeah, you know, that kind of thing, but  
15 otherwise, no, we don't.

16 Q. Okay.

17 A. We stick to basketball, football.

18 Q. All right. Well, it may turn out, in fact, I'm  
19 pretty sure, that there will be a fair amount of  
20 law enforcement witnesses who will be asked to  
21 testify in this particular case. And one of the  
22 jobs of the jurors in this case will be to  
23 evaluate their credibility.

24 And having been at least somewhat  
25 involved in the system, do you think you can

1 evaluate the credibility of a law enforcement  
2 officer or -- the same way you would evaluate the  
3 credibility of any other witness?

4 A. Yes.

5 Q. All right. In other words, you wouldn't hold  
6 them to any higher standard, or any lesser  
7 standard than you would any other witness that  
8 would appear?

9 A. No, no. I would expect them to tell the truth.

10 Q. All right. Well, we would all hope so. But you  
11 may be called upon to make a decision as to  
12 whether some officers are being truthful or  
13 untruthful during the course of the trial; do you  
14 think you could do that?

15 A. Yes.

16 Q. Sure. All right. Now, I just want to verify a  
17 couple of things. If you were selected as a  
18 juror, the trial may very well go six weeks,  
19 maybe a little longer, maybe a little less. Kind  
20 of hard to guess, as you might know. Is there  
21 any hardship that you think that might cause?  
22 You answered no last week, but we just wanted to  
23 touch base with you on that issue, make sure  
24 there wouldn't be any problem if you were  
25 selected as a juror.

1 A. Not that I can foresee, no.

2 Q. Okay. Just a related question. I forgot to ask  
3 about your work. In working with families in  
4 need and providing services, do you consider  
5 yourself kind of a big picture person, bottom  
6 line approach to things, or are you more of a  
7 detail oriented, step-by-step approach to problem  
8 solving or opinion forming?

9 A. People I work with, I -- I do have formed my  
10 opinions on them, until I get to know them. We  
11 work -- We do work step-by-step. It is a  
12 step-by-step process for some of my families --

13 Q. Okay.

14 A. -- you know, to get unsupervised visits --

15 Q. Sure.

16 A. -- to get their children back.

17 Q. Right. So when you are trying to orchestrate  
18 that and you're trying to put a family back  
19 together, are you one who really pays a lot of  
20 attention to the details, or are you thinking,  
21 you know, big picture, what's going to work best  
22 for this group? How do you go about it? If you  
23 were to assess your own approach.

24 A. Well, right now, I'm in the middle of doing that  
25 with a family. And we got the oldest child; we

1           have a date to go home. And we are doing the  
2           step-by-step process. We are looking into the  
3           future.

4    Q.    Sure.

5    A.    You know, we do a little bit of both, I guess.

6    Q.    Okay.

7    A.    It's a very hard question.

8    Q.    Well, may not be an easy answer.

9    A.    Depends, yeah, depends what kind of case I have  
10           at the moment or ... There's was, you know,  
11           little baby steps --

12   Q.    Sure.

13   A.    -- that grew bigger.

14   Q.    All right. That may be it. Just one moment.

15           Oh, yes. The one area I forgot to follow up on,  
16           you were asked if you had any positions of  
17           leadership and you indicated you were on the  
18           Board of Directors for Project Self Help and  
19           Awareness?

20   A.    That's the Mississippi program, yes.

21   Q.    Oh, that's the Mississippi program.

22   A.    Yes. Yes.

23   Q.    I see. So you have a fairly prominent role in  
24           setting up the program and setting some of the  
25           policies?

1 A. Yes, yes. Right now we're doing newspapers and  
2 sending articles out to get more families, so.

3 Q. Sure.

4 A. That would be my hardship, yes.

5 Q. Okay.

6 A. At home, but.

7 Q. So you might have to put a little of that on the  
8 back burner for awhile?

9 A. Yes.

10 Q. Do you do that during the daytime or is that  
11 something you do at night after you get home?

12 A. I don't do much of anything at night when I get  
13 home, I'm pretty tired so.

14 Q. Okay. Fair enough.

15 ATTORNEY FALLON: I guess that's it. I  
16 will pass the juror. Thank you.

17 THE COURT: All right. Mr. Buting.

18 ATTORNEY BUTING: Thank you.

19 **VOIR DIRE EXAMINATION**

20 BY ATTORNEY BUTING:

21 Q. Good afternoon.

22 A. Hello.

23 Q. It's almost evening.

24 A. Yes.

25 Q. My name is Jerome Buting. This is Dean Strang.



1           And we're, obviously, the defense attorneys for  
2           Mr. Avery here today. I appreciate your candor.  
3           And your questionnaire had some very interesting  
4           background things, most of which Mr. Fallon has  
5           covered.

6                        But I want to talk a little bit about  
7           this Mississippi Exchange Program. Maybe some  
8           day I will be able to talk to you more about it,  
9           but I won't get into it in great detail today.  
10          But it seems like a very interesting program I  
11          have never heard of. And I wonder some of the  
12          lessons you may have learned from that, how you  
13          apply that in your job and in your life and how  
14          you may come to this jury with that.

15                       You talked about how when you go down  
16          there many -- or some of the whites really  
17          ostracize you. Apparently don't like you, or  
18          maybe even the young black kids that you are  
19          trying to help?

20    A.    It's not necessarily just the children. I could  
21          be walking with the grandmother of the boy that  
22          stays with us and I have gotten told to walk  
23          behind him.

24    Q.    You have gotten told by someone else?

25    A.    A white man.

1 Q. Okay. So, I mean, that's a pretty --

2 A. Because I'm walking with a black woman, yes.

3 Q. That's a pretty snap judgment that somebody is  
4 making, right?

5 A. Oh, yeah, yeah.

6 Q. And I guess so you have had some real hard,  
7 sometimes cruel examples of what happens when  
8 people judge too quickly?

9 A. Yes.

10 Q. And that, you know, if sometimes they don't take  
11 the time to look deeper and more carefully at a  
12 situation, they can completely misread you or the  
13 situation entirely?

14 A. Correct, yes.

15 Q. Unfortunately, way too many people in this day  
16 and age still have closed minds I guess, right?

17 A. Yes, especially, yeah.

18 Q. Do you think there's people up here in Wisconsin  
19 like that too?

20 A. I don't notice it so much in Manitowoc because so  
21 many people know my family and know Eric. We did  
22 have one issue with, actually, a law officer. We  
23 have a lake and Eric and my husband were putting  
24 the pier in -- or the raft in, which is something  
25 that floats so many feet from your pier. And my

1 husband had yelled, go get the wrench, or  
2 whatever, so Eric just hopped on the paddle boat  
3 and took it over there. And the DNR was out and  
4 saw him on the paddle boat without a life jacket.  
5 And the first thing the law officer said was  
6 where's that's black boy, find that black boy.

7 So needless to say, they both got  
8 tickets for \$250 for not having ... But when we  
9 brought up the black boy situation, we did get it  
10 dropped. So I do find that, yes, you know.

11 Q. Even up here, sure.

12 A. Yeah.

13 Q. That, of course, is sort of a racial bias --

14 A. Mm-hmm.

15 Q. -- or snap judgment. But there could be other  
16 ways that people are biased as well and make snap  
17 judgments and, you know, make the wrong  
18 judgments, right?

19 A. Of course.

20 Q. Now, going to your knowledge or the information  
21 that you got when you -- it wasn't clear to me, I  
22 think you said it wasn't really the news so much  
23 that you -- the TV news that you so much heard  
24 about, it was what came on the radio and word of  
25 mouth, is that more how you have heard about this

1 case?

2 A. Yes.

3 Q. And --

4 A. Of course, the beginning of the case, like I  
5 said, was on the news constantly. I mean, if the  
6 TV was on, it was interrupted or something by --

7 Q. Right.

8 A. -- by that, but ...

9 Q. And the news conferences, did you see those?

10 A. I saw a few of them, I believe.

11 Q. Okay. Now, it sounds like, though, even when you  
12 first heard it come up -- come out, did you also  
13 hear any of Mr. Avery on the news or saying that  
14 he was framed, this isn't true?

15 A. I don't believe ever hearing him speak. I have  
16 seen pictures of him being released.

17 Q. Okay. What about, did you hear from word of  
18 mouth from other people that, the other side, he  
19 was saying right from the beginning, that I was  
20 framed or I'm being framed?

21 A. Yes, I have heard that.

22 Q. Okay. And it sounds like, at least initially,  
23 your sort of gut reaction was maybe that's right  
24 because I can't imagine him doing this, he just  
25 got out, right?

1 A. Right.

2 Q. And then as you heard a little bit more evidence  
3 that was being leaked out into the media, you  
4 started to question that?

5 A. Exactly.

6 Q. Okay. But it's only recently, now, that you  
7 started to reconsider that, now that you heard,  
8 well, hey, there is a blood vial of some sort,  
9 right?

10 A. Mm-hmm, yes.

11 Q. Okay. So, are you even open to the possibility  
12 that maybe he is being set up or was set up,  
13 framed?

14 A. I don't know. I don't know how to answer that.  
15 I don't know enough.

16 Q. It's not something that you completely wouldn't  
17 even consider, or is it?

18 A. Possibly. I mean, I guess, that's what put that  
19 little bit of doubt in my mind --

20 Q. Mm-hmm.

21 A. -- you know, when I first heard it, yes.

22 Q. Perhaps, if somebody was so biased against him  
23 that they would go to such a step?

24 A. I hate to think that would happen but ...

25 Q. Mm-hmm. Now, you -- you actually work in the

1 court system; it wasn't entirely clear to me  
2 what? You work with CHIPS cases, is that it;  
3 child in need of protection and services?

4 A. Some of them are.

5 Q. Okay. Some are, some aren't, some you get in  
6 without actual ...

7 A. The majority of them are CHIPS.

8 Q. Okay.

9 A. Some like us so much that are voluntary, they  
10 want that.

11 Q. Okay. But it sounds like you have had some  
12 exposure to the court -- a courtroom setting and  
13 the rules of court and all of that?

14 A. I do not go to court.

15 Q. Oh, you don't.

16 A. No, very rarely, unless a client wants me there  
17 for support. I will get a court order that says  
18 they need to comply with their weekly visits with  
19 me and follow through with, you know, whatever  
20 the judge may say at the time, you know.

21 I have had to -- I was court ordered to  
22 go to every doctor appointment, that kind of  
23 thing. But not necessarily do I come to the  
24 courtroom, no.

25 Q. Okay. But you do understand, it sounds like,

1           some of the basic principles of burden of proof?

2     A.    Yes.

3     Q.    And beyond a reasonable doubt?

4     A.    Mm-hmm.

5     Q.    And that the State has to prove everything?

6     A.    Yes.

7     Q.    If -- On the other hand, if the defense --

8           Mr. Fallon asked you, if -- if we just did

9           nothing and didn't put on any kind of case or

10          evidence at all, would you be able to look at the

11          State's case and still decide if you have a

12          reasonable doubt and if they haven't proved it to

13          you, beyond a reasonable doubt, come back not

14          guilty, right?

15     A.    Mm-hmm.  Yes.

16     Q.    Okay.  If, on the other hand, we -- we did

17          present some evidence, some witnesses, or

18          cross-examination of the State's witnesses,

19          presenting evidence to you, would you start

20          thinking, well, okay, now I've got to see whether

21          they have convinced me, whether the defense has

22          proven to me that he is innocent?

23     A.    Of course, yes, I mean --

24     Q.    See --

25     A.    I would have to take --

1 Q. Okay.

2 A. Am I reading you wrong when you ...

3 Q. No, I think what you're doing is perfectly  
4 natural. Most people want to hear both sides.

5 A. Right.

6 Q. And want to kind of weigh one against the other.

7 A. Right.

8 Q. But when you come into court, the instructions  
9 tell you -- the Judge will tell you that the  
10 State has the entire burden of proof and that  
11 even if we present any evidence, you don't shift  
12 the burden to us and say, oh, okay, now did the  
13 defense prove their case?

14 A. Mm-hmm.

15 Q. You still have to keep your focus on, you know,  
16 your eye on the ball, which is, did the State  
17 prove their case, beyond a reasonable doubt --

18 A. Right.

19 Q. -- while considering the defense evidence, but  
20 not actually requiring us to prove anything?

21 A. Right.

22 Q. It's a little bit hard to do, but do you think  
23 you can do it?

24 A. I believe I could.

25 Q. Okay. Let me ask it this way. If -- If



1 Mr. Avery, with us, through us, was not able to  
2 prove who did this crime, would you still be able  
3 to find him not guilty, if you had a reasonable  
4 doubt whether he did it?

5 A. I believe that to find him not guilty I would  
6 have to have no doubts in my mind at all.

7 Q. Okay. But to find him not guilty --

8 A. You would have to prove I would have no doubt. I  
9 would have to be 100 percent --

10 Q. Okay.

11 A. -- without a doubt.

12 Q. And that's even if -- even if we couldn't show  
13 who did kill her, let's say, even if we couldn't  
14 show the real person who did this crime, as long  
15 as you -- you still had doubts about whether he  
16 did it, you could -- you would come back not  
17 guilty?

18 A. If I had doubts that he still -- I guess I'm  
19 still not understanding.

20 Q. That's my fault. I guess I'm not being clear.  
21 Go ahead.

22 A. The State would have to prove to me that there is  
23 no doubt in my mind that he did not do it; that  
24 is what I feel. I'm not, like, maybe, maybe not,  
25 you know, that kind of person. But you would

1           have to, also, prove to me that there's no way he  
2           did it.

3       Q.    We would have to prove that?

4       A.    Well, yeah.  I would like, you know, by your  
5           testimony, or whatever you show me, I would like  
6           to be able to walk away with a good conscience  
7           thinking Steven did not do this, or Mr. Avery did  
8           not do this.

9       Q.    Okay.  Well, let's --

10      A.    I believe in my heart either he was set up,  
11           someone else did it, or something.

12      Q.    So what if --

13      A.    I'm not asking -- I'm not thinking you would have  
14           to give me a name and an address, that kind of  
15           thing.  If that's what you mean.

16      Q.    Yes, of the real killer.

17      A.    Right.  Right.

18      Q.    Okay.  All right.  So what if after hearing all  
19           the evidence, including the defense evidence --

20      A.    Okay.

21      Q.    -- you thought, well, gosh, I don't know, maybe  
22           he did it, maybe probably Steven Avery did it  
23           but, gosh, I just don't know, there's these real  
24           serious doubts I have.  I'm not 100 percent  
25           convinced that he is innocent, on the other hand,

1 I have some reasonable doubts about whether he is  
2 guilty. Do you think you could come back with a  
3 not guilty verdict if you felt that way?

4 A. I guess it's hard to answer that right now. I  
5 would like to think that, in my heart, if I was  
6 100 percent.

7 Q. See, what you -- what you have to focus on is --

8 A. The facts, I know. And, you know, I would have  
9 to be fairly confident in my answer. I mean,  
10 it's a -- it's a man's life --

11 Q. Right.

12 A. -- on the line. I would do my best, yes, I  
13 guess.

14 Q. Okay. So, if the Judge instructed you that what  
15 you really have to focus on is to be sure you  
16 have no doubt --

17 A. Mm-hmm.

18 Q. -- whether he is guilty; the focus is not whether  
19 you have no doubt whether he's innocent?

20 A. Mm-hmm.

21 Q. Do you understand the difference?

22 A. Yes.

23 Q. Because otherwise you would be making him prove  
24 that he's innocent.

25 A. Mm-hmm.

1 Q. Do you see the difference?

2 A. Right.

3 Q. And you can do that?

4 A. I can try.

5 Q. Okay. I appreciate that. Now, since you have a  
6 friend in the sheriff's department, although, you  
7 didn't even know he was in the sheriff's  
8 department?

9 A. Well, I -- shows how much we talk work, yeah. I  
10 knew he was in the sheriff's department and he  
11 was in juvenile -- he worked with the juveniles.  
12 I did not know where his promotion led him to. I  
13 know where his office is, I know how to get to  
14 him, but I don't know.

15 Q. Okay. All right. Do you -- Do you think you  
16 would have trouble facing him at your son's next  
17 basketball or football game if you came back not  
18 guilty?

19 A. No.

20 Q. Even if part of the defense was that somebody in  
21 his department crossed the line and was really  
22 trying to frame or set up Steven Avery?

23 A. No. I don't know whose in his department. No.

24 Q. That would not bother you?

25 A. No.

1 Q. Okay. Now, I can tell that you are very  
2 dedicated to your job and your work, that's very  
3 important, right?

4 A. It is, yes.

5 Q. And that's fine. Can you look at your jury  
6 service the same way, that for the next six weeks  
7 this would be -- if selected, this would be your  
8 job and you would want to do just as good a job  
9 and just as thorough a job at this responsibility  
10 as your own job?

11 A. I would like to think so, yes.

12 Q. Okay. I'm almost done, but there's one last  
13 thing --

14 A. That's fine.

15 Q. -- I forgot, on what your prior knowledge would  
16 have been. You mentioned hearing a news  
17 conference when the case was first charged; do  
18 you -- do you know the name Brendan Dassey?

19 A. Yes.

20 Q. The nephew?

21 A. Yes.

22 Q. Okay. And have you heard some information about  
23 him and can you tell me briefly what that is?

24 A. What I know about him?

25 Q. Yes.

1 A. Is that what you are asking me?

2 Q. Yes.

3 A. I know, probably what everybody else knows that,  
4 you know, he said he got off the bus. He heard  
5 some noise. He went to Mr. Avery's trailer, that  
6 part. And that he participated in Teresa's  
7 death.

8 Q. Okay.

9 A. Then a few weeks later, I heard that he said he  
10 did not do that.

11 Q. Okay. Can you -- Are you familiar with the --  
12 with anybody who has ever falsely confessed to  
13 something they didn't do, before?

14 A. No. No, usually it zaps them. The people I work  
15 with.

16 Q. Sure. Can you conceive of any reasons why  
17 somebody might, a 16 year old in particular?

18 A. I probably -- and this wasn't really touched on  
19 with you, sir, but he -- Branden?

20 Q. Brendan.

21 A. Yeah, my son is 16 so, of course, you know he  
22 knows friends from Mishicot. And when all this  
23 happened he said, someone he knew said that he  
24 was so quiet they couldn't imagine him doing  
25 that. He was just a quiet boy that they couldn't

1           imagine him doing that. And I can vividly  
2           remember my son coming home and saying that.

3       Q.    Okay. What if -- what if the State didn't call  
4           Brendan Dassey at all in this case; would that be  
5           a problem for you?

6                    ATTORNEY FALLON: Object to that question.

7                    THE COURT: Based on the form of the  
8           question, I will sustain the objection.

9                    ATTORNEY BUTING: Okay. Let me rephrase  
10          this.

11       Q.    (By Attorney Buting)~ What if, since you have  
12           heard that whole story, what if --

13       A.    Which whole story are you talking about?

14       Q.    The one you --

15       A.    My son, or the first one.

16       Q.    The one that you said you heard Brendan Dassey  
17           say about getting off the bus --

18       A.    Right.

19       Q.    -- and all of that?

20       A.    Okay.

21       Q.    Since you have heard all of that, what if you had  
22           -- had to sit through this trial and never hear  
23           any of that, never hear that story at all; would  
24           you be able to put that out of your mind and  
25           decide the case only on the facts here?

1 A. Apparently I would have to if it wasn't brought  
2 up. If it wasn't --

3 Q. If for some reason he didn't testify in this case  
4 and you never heard that story and any of it, or  
5 you heard some -- some of it, but maybe not all  
6 of it, whatever, the point being, could you block  
7 out any of that outside information you had heard  
8 and focus only on the evidence that you hear in  
9 court?

10 A. I would do my best.

11 Q. Okay. Well, knowing all of that, is this a case  
12 you think you would like to be on the jury? Do  
13 you want to be on this jury?

14 A. I don't know if anybody wants to be on a jury. I  
15 guess I'm very -- I'm like -- my friends are  
16 asking me that too. I'm very much, if it's meant  
17 to be, it's meant to be, you know.

18 Q. Okay.

19 A. I will do my best to abide by the law and, you  
20 know, do what I have to do. But, no, I don't  
21 want to give up going to State. I'm sure  
22 Roncalli is going to State this year. No, I  
23 would rather be doing that with my family, if  
24 that's what you are asking me. But if I get  
25 picked to serve, I will serve and do it to the



1 best of my ability, yes.

2 Q. Okay. That's fine. Thank you. Very much.

3 THE COURT: Mr. Fallon.

4 **VOIR DIRE EXAMINATION**

5 BY ATTORNEY FALLON:

6 Q. Yes, I want to clarify something.

7 A. Okay.

8 Q. And I don't want you to have the wrong  
9 impression.

10 A. Okay.

11 Q. And I'm not sure what you have. You keep saying  
12 if I'm not 100 percent sure, or the State would  
13 have to prove -- you said the State would have to  
14 prove that there's no doubt of his guilt?

15 A. Right.

16 Q. All right. Now, you understand that the State's  
17 burden of proof is to prove beyond a reasonable  
18 doubt?

19 A. Reasonable doubt.

20 Q. Not beyond all doubt.

21 A. Okay.

22 Q. Not to the exclusion of any doubt. It's not a  
23 hundred percent.

24 A. Okay.

25 Q. So, in other words, can you give the State a fair

1           shake. I don't want you to hold the State to a  
2           standard that the Court is going to instruct you  
3           is --

4    A.    I think I'm thinking more in my mind, you know.  
5           I want to be -- be able to sleep at night too.

6    Q.    Right.

7    A.    You know, and -- but...

8    Q.    Well, do you understand there's a --

9    A.    Yes.

10   Q.    A difference --

11   A.    A reasonable doubt.

12   Q.    Beyond all doubt --

13   A.    Yes.

14   Q.    -- no doubt and a reasonable doubt?

15   A.    Right.

16   Q.    All right. And you have that squarely in your  
17           head. And, well, if Judge Willis were to say,  
18           when it came time to start deliberations, you  
19           would have to determine whether he is guilty,  
20           beyond a reasonable doubt. In other words, you  
21           are not going to hold the State to a standard  
22           higher than that?

23   A.    Okay. Yes.

24   Q.    Do you accept that?

25   A.    Yes.

1 Q. Okay. And do you have an idea in your head where  
2 that all lies out?

3 A. Yes.

4 Q. Okay. The Court will describe it much -- in more  
5 detail later on but ...

6 A. And that's a lot of what, you know, I have never  
7 been on a jury before so some of that you will  
8 have to pinpoint for me and clarify.

9 Q. The Judge will take care of that.

10 A. That's his job?

11 THE COURT: I'm actually going to do some  
12 of that right now. I have a few questions to ask  
13 you.

14 MS PIASKOWSKI: Okay.

15 **VOIR DIRE EXAMINATION**

16 BY THE COURT:

17 Q. I'm going the try to phrase the questions as best  
18 I can, along the lines of the instructions that  
19 the jury would get at the close of the trial.

20 A. Okay.

21 Q. First, and the parties on voir dire, as they are  
22 permitted to do, you know, ask you for attitudes.  
23 But one of the things that -- one of the  
24 commitments we have to get out of jurors is that  
25 they are able to follow the instructions given by

1 the Court even if they might judge things  
2 differently in the absence of any instructions.

3 So, first of all, with respect to the  
4 burden of proof, the burden of proof is for the  
5 State to prove, beyond a reasonable doubt, that  
6 Mr. Avery is guilty of any of these particular  
7 charges. Mr. Avery does not have a burden to  
8 prove anything. And at the end of the trial, the  
9 Court will instruct you that you can only find  
10 Mr. Avery guilty of any charge if you are  
11 convinced, beyond a reasonable doubt, that he's  
12 guilty. Do you understand that?

13 A. Yes.

14 Q. Is that an instruction you think you can follow?

15 A. Yes.

16 Q. And that means, for example, if you get in the  
17 jury room and you are thinking to yourself, well,  
18 you know, the State introduced some evidence to  
19 show that he is guilty. And, you know, I think  
20 there's a chance that Mr. Avery is guilty, but I  
21 have also got some serious doubts.

22 And while I know in your answers you  
23 said you would like to be 100 percent sure, you  
24 might not be 100 percent sure, either of guilty  
25 or not guilty. But unless you are sure, beyond a

1 reasonable doubt, that he is guilty, you would  
2 have to vote not guilty; is that an instruction  
3 you can follow?

4 A. Yes.

5 Q. If I instruct you at the end of the case that  
6 those are the rules, can you follow those?

7 A. Yes.

8 Q. One other thing I wanted to mention related to,  
9 you, like many of the jurors, have been exposed  
10 to some publicity concerning this matter. And as  
11 Mr. Buting explained, if you're selected to serve  
12 as a juror, another important instruction will be  
13 that you have to base your decision only on the  
14 evidence that you hear in court.

15 Some of the information that's been on  
16 the news may not be brought forward as evidence  
17 at court. And you can't be speculating, well,  
18 did that not come in because it didn't happen, or  
19 because of some other reason.

20 You just have to base your decision only  
21 on what you hear in the courtroom. And you can't  
22 wonder why other evidence that you may have  
23 thought you were going to hear didn't come in.  
24 And you can't speculate about why it didn't come  
25 in.

1                   I know you have indicated today that you  
2                   have heard some things in the news that tend to  
3                   make you feel both ways. But if you're selected  
4                   as a juror, you have to commit to make your  
5                   decision only on the evidence that does come in  
6                   and what you do hear; that is, what you do hear  
7                   in the courtroom. Do you feel that you can do  
8                   that if you are selected as a juror?

9           A.    Yes.  Yes.

10          Q.    Do you have any questions about it that you want  
11               to ask?

12          A.    No.  No.  I have a 12 year old that is very good  
13               about, if it's on the radio, he will turn it off.  
14               He says, mom can't hear that, or the paper, gets  
15               rid of that ever since, so.

16                   THE COURT:  All right.  At this time,  
17                   Linda -- we'll have Linda escort you out of the  
18                   courtroom.

19                   MS PIASKOWSKI:  Okay.  Thank you.

20                   (Wherein the juror was excused.)

21                   THE COURT:  Now, counsel any motions from  
22                   either party?

23                   ATTORNEY FALLON:  None from the State.

24                   ATTORNEY BUTING:  None from the defense.

25                   THE COURT:  All right.  Ms Piaskowski will

1 be made a part of the jury panel. And I believe  
2 that brings us to 30; is that the count of everyone?

3 ATTORNEY FALLON: That's what I have.

4 THE COURT: Janet, I will ask you first.

5 THE CLERK: That's what I have.

6 THE COURT: Okay. Now, with respect to  
7 proceedings from this point forward, the parties  
8 made a suggestion earlier today to the Court that  
9 was on a tentative basis, I believe, depending on  
10 events today, which we have done that; we have 30  
11 jurors. The parties would be prepared to exercise  
12 their peremptory challenges tomorrow morning at  
13 9:00; is that correct?

14 ATTORNEY FALLON: Yes.

15 THE COURT: That works for both parties?

16 ATTORNEY STRANG: I think 9:00 is fine if  
17 we're out of here pretty soon.

18 THE COURT: Well, we're going to be out of  
19 here pretty soon.

20 ATTORNEY STRANG: That's fine.

21 THE COURT: We're not dealing with anything  
22 else today. So ... All right. We'll meet back in  
23 this courtroom, then, at 9:00 tomorrow for  
24 peremptory challenges.

25 And it's also my understanding, the

1 parties suggested to the Court and as I think  
2 about it, I think it's a good suggestion, that we  
3 address the defense motion regarding the State's  
4 demonstrative exhibits that it wishes to make  
5 part of its opening statement, tomorrow afternoon  
6 in Chilton. 1:00?

7 ATTORNEY STRANG: Sure.

8 THE COURT: Does that work for the parties?

9 ATTORNEY STRANG: Sure.

10 ATTORNEY BUTING: Yes.

11 THE COURT: I also would like to address  
12 any comments that the parties have regarding my  
13 opening instructions, at that time.

14 ATTORNEY STRANG: In Chilton?

15 THE COURT: In Chilton. And I will ask the  
16 parties at this time, is there anything else they  
17 feel should be on the agenda for tomorrow afternoon?

18 ATTORNEY BUTING: Just a little  
19 clarification, are we doing the peremptories with  
20 the jurors here in the courtroom or are we doing  
21 that --

22 THE COURT: No, they will be here in the  
23 courtroom.

24 ATTORNEY BUTING: Okay. They will be here  
25 in the courtroom and then we'll be back and forth



1 and when we get -- we have exercised all of them,  
2 the Clerk will read them off and the rest will go.

3 THE COURT: Right. Normally, the attorneys  
4 sit at counsel table and pass the sheet back and  
5 forth.

6 ATTORNEY FALLON: That's fine.

7 ATTORNEY BUTING: I just wanted to be sure  
8 we're still doing it that way.

9 ATTORNEY FALLON: Right. That was my  
10 concern as well, to make sure that all 30 were here.

11 THE COURT: They will be here.

12 ATTORNEY FALLON: Okay.

13 THE COURT: Now, because of seating, some  
14 of them will be in the front row or the front two  
15 rows of the audience behind you. We can't fit 30  
16 jurors in the jury box. But I know the parties like  
17 to be able to see their faces, so you will be able  
18 to do that.

19 ATTORNEY FALLON: Good.

20 THE COURT: Anything else on the agenda for  
21 tomorrow afternoon?

22 ATTORNEY STRANG: No. And it's at least  
23 possible that I may be flying solo at that hearing;  
24 we haven't decided that entirely.

25 THE COURT: Okay. For the benefit of the

1 news media here, that means that the no camera rule  
2 will still be in effect in the morning for the jury  
3 selection. However, I think the parties, and  
4 perhaps the media as well, may want to use tomorrow  
5 afternoon's proceedings in Chilton as a dry run.  
6 Those proceedings will be open to the public and  
7 cameras are permitted. So I think that addresses  
8 media concerns. Anything else before we adjourn  
9 today?

10 ATTORNEY FALLON: I can't think of  
11 anything, but for whatever reason I just -- I seem  
12 to be -- I just have this gnawing feeling that there  
13 is something we're omitting, but not of any great  
14 consequence that we can't deal with tomorrow.

15 THE COURT: All right. We will see you at  
16 9:00 tomorrow.

17 (Proceedings concluded.)  
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1 STATE OF WISCONSIN )  
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2 COUNTY OF MANITOWOC )

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I, Diane Tesheneck, Official Court Reporter for Circuit Court Branch 1 and the State of Wisconsin, do hereby certify that I reported the foregoing matter and that the foregoing transcript has been carefully prepared by me with my computerized stenographic notes as taken by me in machine shorthand, and by computer-assisted transcription thereafter transcribed, and that it is a true and correct transcript of the proceedings had in said matter to the best of my knowledge and ability.

Dated this 10th day of September, 2007.

\_\_\_\_\_  
Diane Tesheneck, RPR  
Official Court Reporter

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